

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

LAW DEPARTMENT  
701 COMMERCE STREET  
DALLAS, TEXAS 75202

214-651-6736

RECORDATION NO. 9273-A Filed 1425

NOV 24 1978 - 1 40 PM

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JOE C. CRAWFORD  
GENERAL SOLICITOR

INTERSTATE COMMERCE COMMISSION

November 22, 1978

8-329A-104

NOV 24 1978

IN REPLY REFER TO: 410.043-34

Mr. H. G. Homme, Jr.  
Acting Secretary  
Interstate Commerce Commission  
Washington, DC 20423

Date NOV 24 1978  
Fee \$10.00

Washington, D.C.

Re: Conditional Sale Agreement dated as of Feb. 28, 1978, between Evans Transportation Company and Missouri-Kansas-Texas Railroad Company, assigned to Texas Commerce Bank National Association covering Purchase of 50 Covered Hopper Cars; ICC RECORDATION No. 9273

Dear Mr. Homme:

In accordance with the provisions of Title 49 USC 11303 of the Interstate Commerce Act and the rules and regulations approved and prescribed by the Interstate Commerce Commission pursuant thereto, there are submitted herewith for filing and recordation five copies of an Amendment to the Conditional Sale Agreement dated as of February 28, 1978, between Evans Transportation Company, as manufacturer, and Missouri-Kansas-Texas Railroad Company, as purchaser (hereinafter called "Railroad"), which Conditional Sale Agreement was assigned by Agreement and Assignment dated as of February 28, 1978, to Texas Commerce Bank National Association (hereinafter called "Bank"). Said Conditional Sale Agreement and Agreement and Assignment covered the purchase by the Railroad of fifty (50) covered hopper cars bearing recording marks and numbers MKT 4100 - MKT 4149, both inclusive. This Amendment amends the aforesaid agreements to grant Texas Commerce Bank National Association a security interest in and to said hopper cars to secure any default by the Railroad under any irrevocable letter of credit issued to Exxon Company, U.S.A., Division of Exxon Corporation, for the account of Railroad.

The aforesaid Conditional Sale Agreement and Agreement and Assignment was filed with the ICC on March 9, 1978, and assigned Recordation No. 9273.

Please return three file-marked copies to me at the above address for distribution to the parties concerned. I am enclosing a cashier's check in the amount of \$10 payable to the Interstate Commerce Commission to cover the prescribed fee for filing and recording this Amendment.

I certify that I have knowledge of the matters set forth herein.

Very truly yours,  
I.C.C.

NOV 24 1 40 PM 1978  
Arthur M. Albin

Arthur M. Albin

AMA:vas  
Enclosures

RECEIVED

RECORDATION NO. 9273-A Filed 1425

NOV 24 1978-1 40 PM  
INTERSTATE COMMERCE COMMISSION

AMENDMENT TO  
CONDITIONAL SALE AGREEMENT AND  
AGREEMENT AND ASSIGNMENT  
DATED AS OF FEBRUARY 28, 1978

KNOW ALL MEN BY THESE PRESENTS:

THIS AMENDMENT TO CONDITIONAL SALE AGREEMENT AND AGREEMENT AND ASSIGNMENT entered into as of the 17<sup>th</sup> day of November, 1978, between TEXAS COMMERCE BANK NATIONAL ASSOCIATION (hereinafter called the "Bank") and MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a Delaware corporation (hereinafter called "Railroad");

W I T N E S S E T H that:

WHEREAS, Railroad entered into and executed a Conditional Sale Agreement with Evans Transportation Company dated as of February 28, 1978, for the purchase of fifty (50) covered hopper cars; and

WHEREAS, said Conditional Sale Agreement was assigned by Agreement and Assignment dated as of February 28, 1978, by Evans Transportation Company, Manufacturer, to Texas Commerce Bank National Association; and

WHEREAS, it is the desire and intention of the parties to amend the Conditional Sale Agreement and the Agreement and Assignment in order that from and after the date hereof Railroad's equity interest in and to said hopper cars to the extent that it is increased as payments are made pursuant to the terms and provisions of the Agreement and Assignment, shall become collateral for the purpose of securing the Bank against any payments to be made by Bank which may result in connection with the issuance by Bank of any irrevocable letter of credit issued on or before April 26, 1988;

NOW, THEREFORE, for and in consideration of the mutual benefits to be derived by the parties hereto, it is agreed between them as follows:

I.

That certain Conditional Sale Agreement between Evans Transportation Company, manufacturer (hereinafter called "Manufacturer"), and Missouri-Kansas-Texas Railroad Company, railroad (hereinafter called "Railroad"), dated as of February 28, 1978, which was assigned by Agreement and Assignment dated as of February 28, 1978, to Texas Commerce Bank National Association (hereinafter called the "Bank") are both hereby amended and supplemented by adding thereto the following provisions:

It is expressly understood and agreed that from and after the date hereof Railroad's right, title and interest in and to said hopper cars and Railroad's equity interest in and to said hopper cars, to the extent that it is increased as payments are made following this date pursuant to the terms and provisions of the Agreement and Assignment, shall become subject to a security interest created hereby in favor of Bank in order to secure any and all indebtedness of Railroad to Bank resulting in connection with any irrevocable letter of credit issued on or before April 26, 1988, by Bank for the account of Railroad to Exxon Company, U.S.A., Division of Exxon Corporation (hereinafter called "Exxon"), which irrevocable letter of credit may be issued to Exxon in order to secure timely and full payments of amounts due and owing by Railroad to Exxon arising from Railroad's purchases of diesel fuel or other petroleum products from Exxon. All rights and remedies granted to Manufacturer under the terms and provisions of said Conditional Sale Agreement or arising pursuant to the terms and provisions of said Agreement and Assignment shall also be available to Bank and inure to the benefit of Bank in the event it is necessary for Bank to make any payments whatsoever to Exxon pursuant to the terms and provisions of any such irrevocable letter of credit, unless Railroad, upon demand, immediately reimburses Bank for any such payments and related out of pocket expenses.

II.

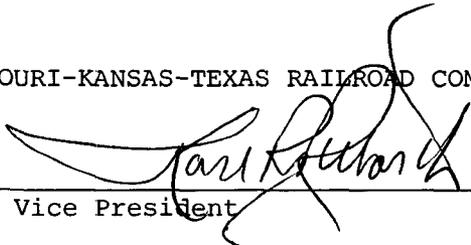
Except as amended and supplemented hereby, all other terms and provisions of said Conditional Sale Agreement and Agreement and Assignment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first stated above.

ATTEST:

  
Assistant Secretary

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

By   
Vice President

TEXAS COMMERCE BANK NATIONAL ASSOCIATION

By   
Vice President

STATE OF TEXAS )  
 ) ss.  
COUNTY OF DALLAS )

On this 17<sup>th</sup> day of November, 1978, before me personally appeared Karl R. Ziebarth, to me personally known, who, being by me duly sworn, says that he is Vice President of MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Ruth Murdoch

Notary Public in and for Dallas County,  
Texas

My Commission expires 12-31-78.

STATE OF TEXAS )  
 ) ss.  
COUNTY OF DALLAS )

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Lee E. Straus, Vice President, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said TEXAS COMMERCE BANK NATIONAL ASSOCIATION, a national banking association, and that he executed the same as the act of said association for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 20<sup>th</sup> day of November, 1978.

Ruth Murdoch

Notary Public in and for Dallas County,  
Texas

My Commission expires 12-31-78.